

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.


WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, Trustees Under  
the Will of JAMES BICKNELL CASTLE,  
Deceased,

Defendants in Error.

Transcript of Record.

Upon Writ of Error to the Supreme Court of the  
Territory of Hawaii.

FILED  
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F. D. MONCKTON,  
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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**Petitioners' Exhibit "A"—Last Will and Testament  
of James B. Castle.**

I, JAMES BICKNELL CASTLE, of Honolulu, in the Island of Oahu, Territory of Hawaii, being of sound and disposing mind and memory and conscious of the uncertainties of life, do hereby make, publish and declare this as and for my LAST WILL AND TESTAMENT, hereby revoking all Wills heretofore by me made, and particularly that WILL made by me on the 20th day of October, 1897.

I devise and bequeath to my wife, Julia White Castle, the estate known as Mahuilani on Haleakala, Maui. All the rest of my estate, real, personal and mixed, I devise and bequeath to my EXECUTORS AND TRUSTEES hereinafter named, for the following purposes:

FIRST. For the payment of my just debts and funeral expenses.

SECOND. For the following uses and purposes which I will explain in some detail.

I want the business represented by the Hawaiian Development Company, Limited, to go on in the same way as though I *here here*. The general plans of development in Kona and Koolau are very familiar to Mr. McStocker and in a broad, general way, to Mr. Withington and Mr. Thurston. I have gone into these various enterprises prepared, if necessary for their successful establishment, to hypothecate all of my securities; but, preferably to the continued burden

of heavy indebtedness, as rapidly as full value may be obtained, by selling some of my old securities, to convert the same into the new enterprises. [1\*]

In line with this, it is my present intention, and in case of my decease I desire my Executors and Trustees, if in their discretion it seem best, to convert two thousand (2,000) shares of Alexander & Baldwin, Limited, stock into cash, provided it can be sold for not less than Two Hundred Dollars (\$200.00) per share, putting the same into Kona investments, preferably West Hawaii Railroad Company, and into the Koolau Railway Company, either or both. After the Kona Development Company and the sugar enterprise which I have planned to mature from the Heeia Agricultural and Koolau Agricultural Companies' properties shall have become successfully established, I do not wish to expand any further in sugar, but only so far as each mill may become the central factory for the manufacture of sugar from the cane bought of small growers.

I do not bind my Executors to follow the line of development above indicated, but mean to confer upon them the widest discretion as to investment and development.

I hope before many years that franchises of such character may be obtained for both the Koolau Railway Company and the West Hawaii Railroad Company as will simultaneously give to such companies the largest command both of all the resources available for financing the same, and of protecting the pub-

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\*Page-number appearing at foot of page of original certified Transcript of Record.

lic interests by turning back to the State all the receipts in excess of such interest upon the actual cash invested in the enterprise as may be agreed upon as reasonable. My thought is that such excess would seldom, [2] if ever, be returnable in cash, but in the form of better railroad facilities and equipment, all pointing toward the establishment of an ideal railroad and service to the community in which the railroad is built, and so far as possible such excess as can be foreseen in cash should be utilized in the directions indicated. These companies enabled to own or lease land without limit, should logically become the finest possible agencies for a wise immigration and homesteading by the re-distribution of such lands along the lines of the road. For the carrying out of these general purposes, including in the case of the Koolau Railway, its extension to Honolulu, provided my Executors are satisfied of the ultimate financial soundness of such extension, I wish to empower them completely to deal with any and all securities which I may possess, and otherwise, so far as lies within their power to finance such enterprises as I would have the power to do were I living.

My general aim in this whole matter is not to accumulate a great estate for my family or heirs beyond conserving the estate which I now possess and which may be conservatively valued as worth between a million and a million and a half, but to devote any increase thereof to the purposes hereinafter indicated.

I desire my Executors to appropriate Fifteen Hundred Dollars (\$1500) a month to my widow, that being about the amount necessary to maintain Kainalu,

Mahuilani and Puuokoa, [3] Tantalus, if she so desires; that is to say, I desire to have nothing less than this paid to my widow for that purpose, or, if she desires, to apply to her other uses, so long as embarrassing financial conditions do not prevent. Subject to the like qualification, that is, so long as such would not shorten the above-named Fifteen Hundred Dollars (\$1500.00) a month being paid to my widow, I desire to continue the payments which I now am making to an old friend and teacher in New York, Mrs. H. K. Hovey, whose present address is No. 7 West 108th Street, New York, Two Hundred Dollars (\$200.00) quarterly; and I desire to pay to Dr. T. M. Coan, present address 70 Fifth Avenue, New York City, One Hundred and Fifty Dollars (\$150.00) quarterly, for as long as each lives. I desire to assist Dr. N. B. Emerson in his literary work to such extent as may be necessary, not to exceed Six Hundred Dollars (\$600.00) a year during his life.

With the successful and profitable establishment, however, of the various enterprises involved, with the requisite income subsequent thereon, I desire to have the amount paid to my widow out of the Estate from its income increased to a sum not to exceed Forty Thousand Dollars (\$40,000.00) per annum.

Upon the decease of my wife, Julia White Castle, I desire to continue an income to my son H. K. L. Castle, subject to the following conditions: The minimum not to be less than Five Thousand Dollars, (\$5,000.00) per annum [4] unless caused by financial embarrassment or inconvenience, (of which the Trustees shall be the absolute judges); the maxi-



mum not to exceed Forty Thousand Dollars (\$40,000.00) per annum, which Forty Thousand Dollars (\$40,000.00) shall include the income which he may be receiving from any property which I may give him prior to my decease, including the income from the One Thousand (1,000) shares of stock in Alexander & Baldwin, Limited, herein mentioned, together with that derived from property derived from his mother.

Should the development of the Estate be such as to justify the expansion into other or related lines of business than those already initiated, of which condition my Executors, or a majority thereof, are fully empowered, without qualification, to decide, and its expansion through establishment of other enterprises in harmony with the ultimate object of my remaining in active business, namely, to accumulate sufficient land and capital to systematically establish an effort to introduce a high-class agricultural immigration of Northern races, preferably Scandinavian, Anglo-Saxon and Teutonic, then I desire them to expend into such enterprises without hesitation and I hereby empower them amply herein for the purpose.

I have promised my son Harold that if he made himself a perfect success as a business man I would give him on his birthday on July 3rd, 1912, One Thousand (1,000) shares of my Alexander & Baldwin stock, if I then possessed the same, free and unencumbered. It was distinctly understood [5] that I did not intend, in the meantime, to set aside or reserve this from any of my business operations whenever I should choose to utilize the same. In case of

my decease, I desire my Executors, under the conditions set forth in this Will, to transfer to my said son, if living, the One Thousand (1,000) shares before-referred to. I desire that the certificate of his "perfect success as a business man" shall be his employment by Alexander & Baldwin, Limited, from September 3rd, 1907, on which date he entered its service, uninterrupted by any cause which he could reasonably control, to July 3rd, 1912 aforesaid, to the complete satisfaction of its Manager and Board of Directors, unless his departure therefrom during such period shall be for the purpose of resuming and completing such college training, whether general or special, as he may become convinced of the need and value of as adequate preparation for his business and life work, such departure to be due in no degree to dissatisfaction of Alexander & Baldwin management with his services, and such resumption of College work to be with the cordial approval of J. P. Cooke or his successor as Manager of Alexander & Baldwin, Limited.

After the fulfillment of the requirements upon the estate as above set forth, I desire to have any excess of income, and after the decease of my said wife and son and said other beneficiaries before named, the whole income, (always subject to the decision of the Executors to devote same to any business enterprises whatsoever which they may approve), [6] to accumulate toward an educational purpose to be initiated at such time as their judgment will determine the estate amply able to carry on without closing its commercial character. My strong desire in connec-

tion therewith will, I hope, be made clear by the following statement:

I believe that individuals, communities and nations are depraved and weakened by the excessive accumulation of wealth whenever the character has not become so permeated with a moral force and enthusiasm, as well as habits of a simpler life than that universally consonant with wealth, that the power represented by such wealth remains nothing more than an instrumentality for promoting moral and intellectual enlightenment of the race.

I believe that history shows that the ages of luxury furnish the fertile soil for national decay and that this is the operation of an inevitable law, true alike of the individual and community units composing the nation as of the whole.

I believe that the counteraction of this influence must be accomplished through some channel of education, if at all, and to my observation the injurious influence of unearned comforts is everywhere visible, the schools and colleges not excepted. The problem hereby set to education, as it seems to me, is how may we provide, (or approximate provision for the children of the well-to-do), that training which necessity provides for the children of the poor. I believe that nothing can completely take the place, as one of the most important factors in the development of character, of the habits of work and duty which necessity provides for the large majority. [7]

The nearest approach that I have been able to think of for this training, could be furnished by a boarding school, as it seems to me, in which the stu-

dents and scholars would constitute an absolute democracy as among themselves, with special privileges to none; and it has long been my dream to establish such a school. It would be dominantly an agricultural school, which at once also certifies that it would be located in the country. It would be exclusively a boarding school and not a day school. Its pupils in my conception of what would be most desirable would not return to their homes from the beginning to the end, say, approximately ten months of the usual school year, and I can easily imagine, without being able to elaborate and describe, the development of such a school into a home and family school of the nature that would easily command most of its pupils uninterruptedly for several years. It would be co-educational, the injurious influences of wealth telling, if possible, more fatally against the ought-to-be mothers of the race than the fathers.

The central principle of such a school would be the fact that every student therein would be obliged to earn a certain definite proportion of his or her training and education. That proportion of each child's time would be employed therefor as would be productive for his or her own best good consonant with a wholesome percentage of play, albeit with sports never made the dominant, overwhelming passion that appears to be [8] the case with the colleges, and accompanied by a regime of study contracting with that universal in the schools preparatory to the colleges and universities by the paucity of branches simultaneously required, it being my thought in connection with the book work done in the schools that



it errs very seriously upon the side of quantity rather than quality, and that fewer branches more slowly and thoroughly taught and the allied subjects suggested in the course of such studies more freely followed out therewith, presents a truer and a wholesomer scheme of mental training, the present being as herein suggested, overbalanced.

Such school would become a productive, large farm and I believe that every boy, and especially in a country like this which in its nature must always be dominantly agricultural, should be thoroughly trained as an intelligent agriculturist early in life, and that every girl should be trained in domestic science, so-called. I know of no place where this can be so thoroughly accomplished for both classes, debarring neither from all the opportunities of the other, as in such a farm-school.

Such a school should be run as a farm, with the best ability that can be secured for such a purpose, and the endowment of the school should be calculated to meet the deficit after full value has been credited for the products delivered to market, minus the credits paid the students for work, and the total expenses.

The total expense of such an institution eventually should determine the cost of the education and training to be received by the boys and girls, from such total would be deducted in [9] each scholastic year the value of their work which should be credited to them regularly, operating to reduce the cost of their school year. I believe that such a school could be established and an enthusiastic interest and ambition be instilled after a few years' experience

in dealing with the problems which would arise. The initial tuition payable should be made nominal. The greatest ethical value in the education of character would, I think, develop inevitably under such a system and the conditions of admission would not depend at all upon wealthy parentage but rather the reverse.

I do not wish to impose upon the Executors in establishing and managing any such school the slightest requirement or condition distinctively religious. It is my desire neither to exact nor require, nor debar such observances. I should wish the school at least to be absolutely non-sectarian and non-denominational, my preference being that it should not be a distinctively religious school, although I am keenly appreciative of the beauty and fine influence of organ and religious music in a beautiful chapel. I believe that in conjunction with the methods herein suggested a strong moral sense can be scientifically developed and almost created. This I conceive of as, in its final perfection of character, epitomizing into two words; unselfishness, which, perhaps, is all-embracing, but to which I add the Love of one's fellow-man, as the inspiring motive and thought in life.

I believe in such a school that the process for developing this trait could be systematically and successfully [10] established. This process is almost totally lacking in families of the wealthy and no amount of admonition or precept can, it seems to me, impregnate the growing child with its fruit. It represents itself to my mind as occupying two stages of development (it being recognized by the child, even

though but theoretically, that the highest aim in life and growth is to do as much good and to confer as much happiness upon one's fellow-creatures as possible), the first stage consisting of the cultivation of the powers of accomplishment through work and training until the point is reached where one becomes entirely self-dependent (incidentally, perhaps, this is a sense to which *independence* might wholesomely be altogether restricted), in order to relieve all others in every respect from one's own dependence; and the second stage, to continue such process of development of the powers of accomplishment through work and training so as to acquire as great a capacity as possible in order, from the excess over one's own necessities so acquired, to bless and help one's fellows.

Kainalu has been willed to me by Mrs. Castle in a codicil dated June 12, 1900, to her will dated October 20th, 1897. I have many times keenly regretted putting the very large amount of money that is there invested in a home for a very small family. Furthermore, I am very strongly convinced that it represents a home of conditions of luxury decidedly prejudicial to the growth of that type of character which I have tried to suggest a favorable school for the attainment [11] of. For a long time I have looked forward to its use eventually in some direction which I felt would be more appropriate, considering the expenditures therein and therefor.

The most practicable and feasible of these, I believe, to be eventually in connection with a large hotel, whenever passenger facilities between the Islands and the Mainland shall have become so rapid, fre-

quent and comfortable as to bring travelers here in sufficient number to render the development of this place profitable in such connection. Failing this, but not advising my Executors positively in either direction, I have thought that it might some day be fitly made a library and art museum, possibly in connection with Oahu College. I do not feel that I am conferring on Harold anything but a real benefit to himself, or more particularly for the training of his family, whenever he shall have one, in diverting this property from its use as his home, believing that he would eventually, if not now, agree with me that a quiet and modest home, with his children brought up to work and not to be waited on perpetually by servants, is the truer life for civilized man and woman.

In this connection I desire that my Executors and Trustees, whenever he may marry, shall, whenever he and his wife shall have selected their location for a home, pay an amount toward the same to his wife direct for such purpose, not to exceed \$10,000.00 (Ten Thousand Dollars), unless this contingency shall have already occurred prior to my decease, in which case this clause is to be void. [12]

I hope that my widow and Harold, in case of my decease, will become warmly interested in the carrying on and eventual success of these plans or dreams and co-operate to the best of their ability; and I believe that the suggestions of both, particularly of Mrs. Castle, would be very valuable.

I hereby declare that nothing herein contained shall be construed to require my Executors and Trustees to engage in or carry on any of the business enter-



prises herein enumerated; or, if they do carry them on, nothing herein contained shall be construed as limiting their discretion in the ways and means, or the extent to which the same shall be carried on. I wish, and hereby declare that they shall have the widest discretionary powers in continuing or discontinuing said enterprises, or either of them; and in the ways, means and methods of conducting or carrying them on; and of engaging in and conducting any other business enterprise or enterprises, which they, in their discretion, may consider for the best interests of my estate.

I also more particularly give them discretion to abandon the attempt to introduce and settle immigrants of the Northern races, if, after trial thereof, they, in their sole discretion, shall become convinced that it is impracticable or not successful enough to warrant further expenditure of money.

I hereby specifically authorize and empower my Executors and Trustees to buy, lease or otherwise acquire any property, real, personal or mixed, which, in their discretion, [13] they may deem necessary or proper to carry into effect any of the objects or purposes herein set forth;

And, also, for like purposes, in their sole discretion to sell, convey, exchange or lease either for money, for other property, or by way of compromise, and either for cash or on credit, any property, real, personal or mixed, which may at any time belong to my estate;

And, also, to like purposes, in their sole discretion, to borrow money, on behalf of my estate, either on

open account, or on promissory notes as Trustees of my estate, or by pledge or mortgage, either direct or to a Trustee, of the whole or any part of my estate, and either accompanied or not accompanied by coupon bonds, upon such terms and conditions, rates of interest and time or times when payable, as to them shall seem best;

And, also, the power to invest, change investment and reinvest any moneys at any time belonging to my estate, with sole discretion as to the character of such investments;

And I hereby specially direct that my Executors and Trustees shall not be restricted in the character or class of business in which they may engage or the investments which they shall make, to those ordinarily considered as proper investments for trust estates, but, knowing my desires and objects as they do, both from the statements herein made and from my talk with them, they shall have full power and authority to carry out such desires and objects in such manner as, in their sole discretion, they may deem wise and most likely to effectuate such desires and objects, unfettered by the technicalities and control usually incident to the management of trust estates. [14]

I hereby further direct that if, at any time or times, my Executors and Trustees shall, in their sole discretion, deem it wise to pay a special salary to any one or more of said Executors and Trustees for the purpose of securing special service in addition to the service ordinarily expected from him or them as Executors and Trustees, in addition to the commis-

sions which such Trustee or Trustees would legally receive, they shall have and are hereby given the authority to so employ such Trustee or Trustees and pay said salary or salaries.

I appoint as EXECUTORS AND TRUSTEES, L. A. THURSTON, F. B. McSTOCKER, and D. L. WITHINGTON, and I desire that W. R. CASTLE shall act in the absence or disability of any one of the Executors or Trustees. I desire that, in case of the decease of anyone of said three Executors the remaining two with W. R. Castle shall appoint his successor. And I authorize my said Executors and Trustees to increase their number to a number not greater than five (5) by the addition of said W. R. Castle, or my son Harold K. L. Castle, when he shall have unquestionably qualified for appointment, or by the addition of such other persons as may be selected by said Executors, said action being evident in writing, and I hope that by the time any vacancy by death shall occur, my said son will then unquestionably be qualified for appointment.

I further direct that my said Executors and Trustees be exempt from giving bond or surety for the faithful performance of their duties either as Executors or Trustees. [15]

IN WITNESS WHEREOF, I have set my hand this 13th day of September, A. D. 1907.

(Sgn.) J. B. CASTLE.

Signed, published and declared this 13th day of September, A. D. 1907, as and for his LAST WILL AND TESTAMENT by JAMES B. CASTLE in our presence, who in his presence and in the presence of each other have hereunto signed our names as witnesses.

(Sgn.) HARLEAN JAMES,  
Residing in Honolulu.

(Sgn.) WILLIAM L. CASTLE,  
Residing in Honolulu.

I, JAMES BICKNELL CASTLE, within named, hereby make, publish and declare this as a CODICIL to my before written Last Will and Testament, hereby reaffirming and republishing said Last Will and Testament in all respects excepting as herein modified, viz.:

I REVOKE the appointment of F. B. McStocker as Executor and Trustee, and also the clause in said will authorizing my said Executors and Trustees to increase their number, and I appoint my son, HAROLD K. L. CASTLE, as an Executor and Trustee in place of said F. B. McStocker, jointly with my other Executors therein named, with like powers and exemption from giving bond or surety; my son having now become unquestionably qualified.

WITNESS *hy* hand this 19th day of August, A. D. 1912.

(Sgn.) JAMES BICKNELL CASTLE.



Signed, published and declared, this 19th day of August, A. D. 1912, as and for a CODICIL to his Last Will and Testament, and as and for the republication of said Last Will and Testament as herein modified, by JAMES BICKNELL CASTLE, in our presence, who, in his presence and in the presence of each other, have hereto signed our names as witnesses.

(Sgn.) ALBERT N. CAMPBELL,  
Residing in Honolulu.

(Sgn.) WILFRID A. GREENWELL,  
Residing in Honolulu. [16]

[Endorsed]: Last Will and Testament of James B. Castle. Dated September 13, 1907. Original Will Presented at 11:15 A. M., April 13th, 1918. (Sgn.) B. N. Kahalepuna, Clerk. P. No. 5383. Petitioner's Exhibit "A." (Sgn.) J. C. Cullen, Clerk. [17]

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*In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.*

AT CHAMBERS—IN PROBATE.

In the Matter of the Estate of JAMES B. CASTLE,  
Deceased.

**Election to Take Dower.**

I, Julia W. Castle, widow of the above-named James B. Castle, hereby elected to take dower in the estate of my late husband instead of the provision made for me by the will of my husband admitted to probate herein.

Dated, Honolulu, July 12th, 1918.

(Sgn.) JULIA W. CASTLE. [18]

[Endorsed]: P. No. 5383. Reg. 4, Pg. 239. Circuit Court, First Circuit, Territory of Hawaii. At Chambers—In Probate. In the Matter of the Estate of James B. Castle, Deceased. Election to Take Dower. Filed July 12, 1918, at 2:45 P. M. (Sgn.) Sibyl Davis, Clerk. [19]

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*In the Circuit Court of the First Circuit, Territory of Hawaii.*

AT CHAMBERS—IN PROBATE.

In the Matter of the Estate of JAMES B. CASTLE,  
Late of Honolulu, T. H., Deceased.

**Petition for Allowance of Accounts, Determining  
Trust and Distributing the Estate.**

The petition of William R. Castle, H. K. L. Castle and David L. Withington, respectfully, shows that on the 20th day of May, 1918, they were duly appointed by this Honorable Court executors of the Estate of James B. Castle, late of Honolulu, T. H., deceased, without bond. That on the 17th day of June, 1918, a sworn inventory was filed of all the property and assets of every kind whatsoever belonging to the estate of said deceased; that notice to creditors of the said estate was duly made in the "Pacific Commercial Advertiser," a newspaper printed and published in Honolulu, Territory of Hawaii, for four successive weeks, and that more than six months have elapsed since the first publication of said notice.

That collections of all sums known or believed to be due and collectible for said estate have been made;

that they paid all just claims against and debts of said estate that all the duties required by law or orders of this Court, of which a faithful and prudent appointee should do, have been performed. That Schedules marked "A" and "B," respectively, and made part of this petition, show the receipts and expenditures; also, on Schedule marked "C," and made part of this petition, a true, full and exact summary showing the remainder of property belonging to the said Estate, and upon Schedule "D" hereto attached and made a part of this [20] petition a list of the assets and property in the hands of said executors, and also filed herewith and as a part of this petition a report signed by the executors.

WHEREFORE, it is prayed that upon a day appointed for the hearing of this petition, said accounts be examined and allowed, and that an order be made to deliver over such property as remains to the persons thereto entitled; also, that petitioners be discharged from all further responsibility herein.

(Sgn.) WILLIAM R. CASTLE.

(Sgn.) H. K. L. CASTLE.

(Sgn.) DAVID L. WITHINGTON.

The petitioners above named, being duly sworn, depose and say that the matters set forth in the foregoing petition are true.

(Sgn.) WILLIAM R. CASTLE.

(Sgn.) H. K. L. CASTLE.

(Sgn.) DAVID L. WITHINGTON.

Subscribed and sworn to before me this 15th day of February, 1919.

[Seal]

(Sgn.) W. A. GREENWELL,

Clerk. [21]

## SCHEDULE "A."

## CAPITAL RECEIPTS.

1918.

	Credit balance with Henry Waterhouse Trust Company, Limited, at date of death .....	\$198,588.20
	Cash on deposit with Henry Waterhouse Trust Company, Limited, at date of death, pledged to purchase Territorial Bonds .....	20,000.
	Cash on deposit with Henry Waterhouse Trust Company, Limited, at date of death, pledged to purchase Liberty Bonds .....	30,000.
June 15.	By equitable Life Assurance Company, policy 306565 .....	5,076.07
June 24.	By New York Life Insurance Company, policy 3656598 .....	110,000.
July 5.	By Mutual Life Insurance Company, policy 393957 .....	5,001.84
July 16.	By Oahu Shipping Company, Limited, principal of note dated March 8, 1918 .....	40,000.
July 17.	By E. P. Low, principal of his note.....	11,328.14
July 17.	By sale of 63 shares of Oahu Shipping Co., Ltd.....	777.66
Aug. 22.	By sale Koolau Agricultural Company, Limited, and Koolau Railway Company, Limited, stock as finally adjusted \$86,825 cash, notes \$57,500, \$50,000 and \$44,682.80, total .....	239,007.80
Oct. 5.	By Kona Development Company, Limited, principal of note dated March 30, 1918 .....	10,911.73

Oct. 5.	By Kona Development Company, Limited, principal of note dated May 20, 1918 .....	46,492.91
Oct. 18.	By sale of Kaipapau to Julia W. Castle...	1,000.
Dec. 12.	By refund Federal Income Tax.....	1,303.22
1919.		
Jan. 13.	By sale 2677 shares Kona Agricultural Company, Limited, stock of W. R. Castle .....	12,900.
Jan. 13.	By sale South Kona lands to W. R. Castle.	6,800.
Jan. 13.	By T. Konno, a/c principal of mortgage..	200.
Jan. 31.	By Maui Agricultural Co., Ltd., a/c ex- change Sugar Factors stock exchanged for \$46,175 Liberty Bonds.....	192.85
Feb. 4.	By W. R. Castle, Tr. balance principal Konno note .....	2,800.
Feb. 12.	By Kona Development Company, Limited, principal of note dated February 28, 1918 .....	41,838.18
		<hr/>
		783,318.60

N. B.—Of this total of \$783,318.60 there are included notes of \$57,500, \$50,000 and \$44,682.80 above referred to, a total of.....

Balance..... 631,135.80

[22]

INCOME.

1918.

May 31.	Sugar commissions for month of May, 1918 .....	\$ 354.91
June 30.	Sugar commissions for month of June, 1918 .....	624.60
July 2.	F. J. Snow, rent Olaa lands for year end- ing June 30, 1919.....	60.



July 11.	Chas. Akana, rent Manoa lands for year ending December 31, 1918.....	100.
July 15.	Sundry rents and interest from South Kona property .....	818.85
July 16.	Interest on Oahu Shipping Company note of \$40,000 at 8% from March 8 to July 16, 1918 .....	1,137.80
July 17.	Interest on Eben P. Low note of \$11,328.14 at 7% from — to July 17, 1918.....	561.70
July 29.	By Shipman and White,	
	(a) Rents .....	54.36
	(b) Taxes on leasehold.....	17.20
July 29.	Rent Kaneohe Ranch Company to 12-31-17	12.50
Aug. 7.	Coupons Hawaii Territory bonds.....	400.
Aug. 19.	By Thomas Wah King, interest at 7% on \$8000 for six months ending August 16, 1918 .....	280.00
Aug. 31.	Sugar commissions for month of August.	2,865.11
Sep. 14.	By sundry rents, South Kona land.....	41.50
Sep. 18.	By Liberty loan coupons.....	446.96
Sep. 30.	Sugar commissions for month of September	288.93
Oct. 5.	By Kona Development Company, Limited, interest on note of \$10,911.72 from March 30 to October 5, 1918, at 6%...	336.45
Oct. 5.	By Kona Development Company, Limited, interest on note of \$46,492.91 from May 20 to October 5, 1918, at 6%.....	1,046.09
Oct. 30.	Sugar commissions for month of October..	869.34
Nov. 26.	By Kaneohe Ranch Company, Limited, rent to December 31, 1918.....	25.00
Dec. 6.	Sundry rents South Kona land.....	100.00
Dec. 31.	Interest on credit balances with Henry Waterhouse Company, Limited, at 4% to date .....	8,690.26

1919.

Jan. 23.	Remittance W. M. McQuaid, rent and taxes South Kona lands.....	27.80
Jan. 23.	Remittance from W. M. McQuaid, rents South Kona lands .....	103.17
Jan. 28.	Interest on credit balances with the Henry Waterhouse Trust Co., Ltd., at 4% to date .....	1,348.57
Jan. 28.	By F. J. Snow, rent Oloo lands to December, 1919 .....	30.00
Feb. 4.	Interest on balance of Konno note of \$2800 from Dec. 28, 1918, to date.....	21.77
Feb. 12.	By Kona Development Company, Limited, interest on note of \$41,838.18 at 6% from February 28, 1918, to date.....	2,396.52
Feb. 8.	Rent Manoa lands to 6-30-19.....	136.60
		<hr/>
		23,195.99
Feb. 5.	Coupons Hawaii Territory bonds.....	400.
		<hr/>
		23,595.99

[23]

SCHEDULE "B."

CAPITAL PAYMENTS.

1918.

May 6.	Purchase Liberty Bonds.....	\$ 30,000.
May 20.	Loan to Kona Development Company, Limited, note of even date.....	46,492.91
July 2.	Purchase Territorial Bonds at 98.04.....	19,943.55
Dec. 27.	Loan to T. Konno, secured by mortgage on real estate .....	3,000.

1919.

Jan. 14.	Sugar Factors stock, one-half principal and interest of note .....	32,839.54
		<hr/>
		132,276.00

## CLAIMS PAID.

1918.

June 24.	New York Life Insurance Company note, principal and interest .....	65,169.72
June 25.	Hawaiian Electric Company.....	1.20
June 25.	Schubert Quarter .....	40.
June 25.	City Transfer Company .....	4.
June 25.	H. H. Williams, Undertaker.....	179.
June 25.	Ah Chew Brothers.....	74.
June 25.	Benson, Smith & Company.....	4.90
June 25.	Wall & Dougherty .....	8.75
June 25.	Alexander & Baldwin, Limited .....	200.
June 25.	Dr. Augur .....	175.
June 25.	Cameron & Johnstone.....	10.
June 25.	Honolulu Gas Company, Limited.....	12.50
June 25.	P. L. Weaver.....	377.
July 5.	Miss Toor .....	90.
July 25.	Federal Income Tax 1917.....	574.86
July 30.	Chas. E. Lauriat.....	16.17
July 30.	Bretano's .....	28.87
Aug. 30.	Note of W. R. Castle dated December 8, 1916 .....	5,000.
Aug. 30.	Interest on same from Dec. 8, 1916, to Aug. 30, 1918, at 6%.....	518.33
Oct. 7.	Castle & Withington (a) Fee for drawing agreement of sale, deed mortgage and note Pelekunu land .....	30.00
	(b) Advice re Federal Income Tax....	25.
Nov. 20.	Chas. E. Lauriat.....	50.
Nov. 25.	Castle & Withington, services drawing deed Hawaiian Board to J. B. Castle.....	12.
Nov. 27.	Nelson for awnings.....	425.



1919.

Feb. 12.	To Henry Waterhouse Trust Company, Limited, assignee of the McQuaid claim .....	5,000.
		<hr/>
		78,026.30

[24]

ADMINISTRATION EXPENSES.

1918.

Apr. 12.	Costs filing petition for administration, Voucher — .....	17.
Apr. 26.	Certificate re proofs of death, Voucher —	3.
Apr. 27.	Affidavit re proofs of death, Voucher —	5.50
May 18.	To Castle & Withington on a/c fee, Voucher — .....	250.
May 20.	Notice to creditors, Voucher — .....	4.50
May 20.	To Henry Smith, two oaths on proof of death, V. — .....	1.
May 20.	Three certified copies letters testamentary, V. — .....	3.
May 29.	Wireless to McQuaid, Voucher —.....	1.55
June 15.	Allowance Julia White Castle, two months - ending June 5, 1918, Voucher —....	3,000.
June 18.	Territorial taxes "Kainalu" first half 1918, real and personal Voucher —..	1,095.
July 5.	Allowance Julia White Castle, month end- ing July 5, 1918, Voucher —.....	1,500.
July 23.	Certified copy letters testamentary, Voucher — .....	1.50
July 30.	Appraisers' fee, Voucher —.....	10.
Aug. 5.	Allowance <i>July</i> White Castle to August 5, 1818, Voucher — .....	1,500.
Aug. 17.	To H. K. L. Castle and D. L. Withing- ton, expenses Hawaii trip, Voucher —	76.65

Aug. 26.	Internal Revenue stamps on sale of stock of Koolau Agricultural Company, Limited, and Koolau Railway Company, Limited, Voucher —.....	26.64
Aug. 29.	Costs of court on application for authority to assign lease and convey property at Koolau, Voucher —.....	5.00
Sep. 9.	Allowance Julia White Castle for month ending September 5, 1918 —.....	1,500.
Oct. 1.	To Hideo Emoto family, settlement in full, V. — .....	100.
Oct. 7.	To Castle & Withington, services preparing documents and acknowledgments on sale of land to Koolau Agricultural Company, Limited, Voucher —.....	120.
Oct. 9.	Julia White Castle, allowance for month ending October 5, 1918, Voucher —.	1,500.
Oct. 25.	To Mow Wong, settlement in full, Voucher — .....	468.
Nov. 12.	To Julia White Castle, allowance for month ending November 5, 1918, Voucher —.....	1,500.
Nov. 15.	To taxes on Kona property, last half 1918, V. —.....	26.55
Nov. 25.	To H. K. L. Castle, services in connection with the sale of Koolau Agricultural Company, Limited, and Koolau Railway Company, Limited, stock, V. —.....	175.
Nov. 25.	To Territorial taxes "Kainalu," real and personal, last half 1918 Voucher —..	1,094.95
Dec. 6.	To Julia White Castle, allowance for month ending December 5, 1918. Voucher —.....	1,500.
Dec. 13.	To two certified copies letters testamentary, V. —.....	3.

1919.

Jan. 13.	Internal Revenue stamps on transfer of 2678 shares Kona Agricultural Company, Limited, stock and on deed W. R. Castle, Voucher —.....	18.72
Jan. 13.	To costs on petition for authority to execute mortgage, etc.....	11.50
Jan. 14.	To Julia White Castle, allowance for month ending January 5, 1919, Voucher — .....	1,500.
Feb. 5.	To Julia White Castle, allowance for month ending February 5, 1919, Voucher —.....	1,500.
Feb. 5.	To Castle & Withington to services on the estate, Voucher —.....	2,250.

[25]  
 ADMINISTRATION EXPENSES (Continued).

1919.

Feb. 8.	To titus M. Coan, annuity for nine months ending January 5, 1919, Voucher —.	450.
Feb. 13.	To Costs on filing petition for closing estate, Voucher —.....	10.
Feb. 13.	To Executors' fees, Voucher —.....	24,482.15
1918.	July 15. Expenses as per McQuaid's list of July 15, 1918, Voucher —.....	623.85
		<hr/>
[26]		46,327.06

## SCHEDULE "D."

## ASSETS AND PROPERTY ON HAND.

## Personal Property.

Note, Joseph F. Smith, Trustee, dated August 22, 1918.....	\$57,500.
Note, Joseph F. Smith, Trustee, dated August 22, 1918.....	50,000.
Note, Joseph F. Smith, Trustee, dated August 22, 1918, for \$50,000, on which there is unpaid principal.....	44,682.80
Note, Thomas Wah King, secured by mortgage on real estate, dated February 14, 1918, for.....	8,000.
War Savings Stamps.....	832.
Library	
Furniture	
299 shares Kaneohe Ranch Company Limited.	
399 shares Heeia Agricultural Company, Limited.	
2000 shares Hawaii Hardwood Company, Limited.	
5000 shares Western Consolidated Oil Company.	
499 shares Hawaiian Development Company, Limited.	
20 shares Oahu Country Club.	
20 Territorial bonds, denomination of \$1,000 each.	
4 bonds 3rd Liberty Loan, denomination of \$5,000 each.	

10 bonds 3rd Liberty Loan, denomina-  
tion of \$1,000 each.

Liberty Bonds in transit having a face  
value of .....\$46,750.

Real Estate.

44 acres of land at Manoa, Oahu.

2.96 " " " " Koolau, "

186.25 " " " " Oloa " [27]

SCHEDULE "C."

FINAL ACCOUNT OF WILLIAM R. CASTLE,  
H. K. L. CASTLE AND D. L. WITHING-  
TON, EXECUTORS OF ESTATE OF JAMES  
B. CASTLE.

The Executors charge themselves with the follow-  
ing sum as per Schedule "A," \$631,135.80 hereto an-  
nexed and asks to be allowed the following sum, as  
per Schedule "B," hereto annexed, \$256,629.36.

We HEREBY CERTIFY that the foregoing ac-  
count, and the Schedules marked "A" and "B," here-  
to annexed, and the vouchers herewith produced and  
filed, are full, true and correct statements of all sums  
received and paid out by us, or in our behalf, as said  
Executors up to and including the 15th day of Feb-  
ruary, A. D. 1919.

(Sgn.) H. K. L. CASTLE.

(Sgn.) WILLIAM R. CASTLE.

(Sgn.) DAVID L. WITHINGTON.

Subscribed and sworn to before me this 17 day of  
February, A. D. 1919.

[Seal] (Sgn.) W. A. GREENWELL,  
Notary Public.

NOTE.—Write “Receipts-Schedule A” on first sheet of moneys received: and write “Payments-Schedule B” on first sheet of moneys paid.

Referred to Henry Smith, as Master, this 18th day of February, 1919.

(Sgn.) C. W. ASHFORD,  
First Judge.

[Endorsed]: P. No. 5383. Reg. 4, P. 244. Circuit Court, First Circuit, Territory of Hawaii. In Probate. In the Matter of the Estate of J. B. Castle, Honolulu, Hawaii, Deceased. Final Account of Executors. Filed at 3:10 o'clock P. M., February 17th, A. D. 1919. (Sgn.) B. N. Kahalepuna, Clerk.  
[28]

[Endorsed]: P. No. 5283. 4/244. Circuit Court, First Circuit, Territory of Hawaii. In the Matter of the Estate of James B. Castle, Late of Honolulu, T. H., Deceased. Petition for Allowance of Accounts, Determining Trust and Distributing Estate. Circuit Court, First Circuit. Filed Feb. 17, 1919, at 3:10 o'clock P. M. (Sgn.) B. N. Kahalepuna, Clerk. Castle & Withington, Attorneys for Petitioners. [29]



*In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.*

AT CHAMBERS—IN PROBATE.

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased.

**Supplemental Final Account.**

To the Honorable C. W. ASHFORD, First Judge  
First Circuit Court, Territory of Hawaii:

Yours executors present a supplemental account and supplemental Schedules "A" and "B" of additional income received and administration expenses paid out, and ask that the same may be allowed with the account heretofore presented.

Your executors further represent that they have agreed with the widow, Julia White Castle, that in the computation of her dower the notes shall be computed at their face value, the War Savings Stamps, Library, Furniture, stock in the Kaneohe Ranch Company, Limited, Heeia Agricultural Company, Limited, Western Consolidated Oil Company and Hawaiian Development Company, Limited, at the amount set out in the appraisal, and that in its computation the stock of the Oahu Country Club and Hawaii Hardwood Company, Limited, as of no value, and that the Territorial and Liberty Bonds shall be estimated at their face value; that the said Julia White Castle shall receive as a part of her dower, at the value set out in the appraisal:

299 shares Kaneohe Ranch Company, Limited .....	\$ 75,000
399 shares Heeia Agricultural Company, Ltd .....	10,000
Library .....	6,000
Furniture .....	500
Carried forward.....	\$ 91,500

[30]

Brought forward.....	\$ 91,500
Note of Joseph F. Smith, dated Aug. 22, 1918 .....	57,500
6 Territorial Bonds, denomination \$1000 each, numbered 555-560.....	6,000
12 First Liberty Loan Bonds, \$1000 each, numbered 62656-62667 .....	12,000
10 Third Liberty Loan Bonds, \$1000 each, numbered 162282-162291 .....	10,000
4 Fourth Liberty Loan Bonds, \$1000 each, numbered 202280, 202281, 270355, 270356	4,250
5 Fourth Liberty Loan Bonds, \$50 each, numbered 13904137-13904141 .....	
	<hr/>
	\$181,250

All remainder of the personal estate of every description shall pass to the trustees, and estimated at the values set out in the appraisal, but there shall be first paid to the said widow, Julia White Castle, \$1000 out of the estate for her dower interest in the real estate and to equalize these items.

The executors waive any right to any compensation in regard to the \$50,000 which was deposited sepa-



rately with the Henry Waterhouse Trust Company, Limited, and used in the purchase of Government bonds, and desire that a recomputation be made.

Your executor, Harold K. L. Castle, declines to accept the appointment as a trustee, and the trustees then named would be William R. Castle, L. A. Thurston and David L. Withington.

Dated, Honolulu, March 24, 1919.

Respectfully submitted,  
(Sgn.) WILLIAM R. CASTLE.  
(Sgn.) H. K. L. CASTLE.  
(Sgn.) DAVID L. WITHINGTON.  
Executors, Estate of James B. Castle.

I hereby assent to the foregoing.

JULIA WHITE CASTLE.  
By (Sgn.) H. K. L. CASTLE,  
Her Attorney in Fact.

Subscribed and sworn to before me this 24 March, 1919.

[Seal] (Sgn.) W. A. GREENWELL,  
Notary Public. [31]

SUPPLEMENTAL SCHEDULE "A."

INCOME.

1919.

- Feb. 28. Interest on credit balances with  
Henry Waterhouse Trust  
Company, Limited, for month  
ending February 28, 1919. . . . \$1,387.26
- Mar. 15. Interest on notes of Joseph F.  
Smith to February 22, 1919. . . . 4,183.03

- “ 21. Interest on credit balances with  
Henry Waterhouse Trust  
Company, Limited, to March  
28, 1919 ..... 1,324.40

SUPPLEMENTAL SCHEDULE “B.”

ADMINISTRATION EXPENSES.

1919.

- Mar. 15. To Julia White Castle, allowance  
for month ending March 5,  
1919 ..... 1,500.
- “ 19. To Cameron & Johnstone, services  
Federal taxes ..... 100.
- “ 21. To Julia White Castle, allowance  
23 days to March 28, 1919. .... 1,150.
- “ “ To Executors’ fees on \$6,894.69 at  
5% ..... 344.73
- “ “ To Rent of deposit box with the  
Henry Waterhouse Trust Com-  
pany, Limited, for one year. .... 20.

[32]

[Endorsed]: P. No. 5383. 4/239. Circuit Court,  
First Circuit, Territory of Hawaii. In the Matter of  
the Estate of James Bicknell Castle, Deceased.  
Final and Supplemental Report of Executors. Filed  
at 3:45 o’clock P. M., March 24, 1919. (Sgn.) B.  
N. Kahalepuna, Clerk. Castle & Withington. [33]

*In the Circuit Court of the First Circuit, Territory of  
Hawaii.*

AT CHAMBERS—IN PROBATE.

In the Matter of the Estate of JAMES B. CASTLE,  
Late of Honolulu, Hawaii, Deceased.

**Order Approving Accounts, etc.**

Whereas, William R. Castle, David L. Withington and H. K. L. Castle, as executors under the will and of the Estate of James M. Castle, did on the 17th day of February, 1919, file in this Court a petition showing that on the 20th day of May, 1919, letters testamentary were duly issued to them out of and under the seal of the above-entitled court; that on the 17th day of June, 1918, was filed a sworn inventory of all the property and assets of said estate which have come to their possession or knowledge; that notice to creditors was given in manner and form prescribed by law by publication in the "Pacific Commercial Advertiser," a newspaper printed, published and circulated in the First Judicial Circuit of the Territory of Hawaii, once a week for four successive weeks, and that more than six months have elapsed since the first publication of said notice; that as such executors they have collected all sums and amounts of money due to said deceased which can be collected; that as such executors they have faithfully performed and discharged all the duties required by law or by the orders of this court to be done and performed; that on Schedules "A," "B" and "C" annexed to said petition and made a part thereof, is exhibited and

shown an account of all receipts and expenditures [34] made by them for and on behalf of said estate; also of all property remaining in their hands belonging to said estate subject to distribution, praying that said account may be examined and approved and that they may be discharged from any and all further and future liability or responsibility under their trust as such executors, and that an order of distribution of the property remaining in their hands be made to the persons entitled thereto, and said estate finally closed.

Order to show cause was returnable on the 28th day of March, 1919, at 2 o'clock P. M., before this court, at Chambers, in the Judiciary Building, in Honolulu, which said order further required that notice be given by publication in the manner by statute provided.

That on the 28th day of March, 1919, Messrs. Castle & Withington and Arthur Withington, Esq., appearing on behalf of the petitioners, and F. M. Hatch, Esq., appearing for and in behalf of the widow, Julia W. Castle, and the Territory of Hawaii by Harry Irwin, Esq., Attorney General, and H. K. L. Castle all being present in court, and upon due proof of the publication of notice of said order in the manner and for the time therein specified, and upon due proof that said executors have faithfully discharged the duties of their trust according to law and the orders of this Court, except the payment to Harold K. L. Castle of the annuity provided in said will, and no objection being made by those present in court as aforesaid,

NOW, THEREFORE, it is ordered that said final account be and the same is hereby approved, allowed and settled.

And the said H. K. L. Castle, in open court having waived his right to act as such trustee, and it appearing to the Court that no objection exists to the appointment of William R. Castle to be substituted to the place of said H. K. L. Castle as such trustee,

NOW, THEREFORE, it is hereby ordered that the renunciation of said H. K. L. Castle be accepted, and William R. Castle is hereby appointed as trustee in his place and stead. [35]

And it further appearing to the Court that the widow, Julia W. Castle, and the executors have entered into an agreement and method, under and by the terms of which it set apart to her her dower rights in the personal property of the estate, other than the proceeds of life insurance, NOW, THEREFORE,

IT IS ORDERED AND DECREED that the agreement and method of said partition or division between the widow, Julia W. Castle, and the executors, setting apart to her her dower rights in the personal property of the estate, other than the proceeds of life insurance, be and the same is hereby approved.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the widow, Julia W. Castle, be and she is hereby entitled, by way of dower, to participate in and receive from the executors one-third ( $\frac{1}{3}$ ) of the aggregate net amount collected by them upon the policies of life insurance listed among the assets of the estate.



AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED that WILLIAM R. CASTLE, L. A. THURSTON and DAVID L. WITHINGTON be and are hereby appointed trustees upon and under the trusts and in accordance with the provisions set forth and contained in the will of James B. Castle.

IT IS HEREBY ORDERED, and said executors are directed and authorized, upon first retaining in their possession and control funds sufficient to pay all prospective or probable Federal or Territorial succession taxes, and all prospective or probable attorneys' fees and costs of further litigation herein, in the total sum of \$85,000, to make distribution of all the property remaining in their hands as such executors, to the widow, Julia W. Castle, her dower right as set apart to her under the agreement and method of division between her and the executors as hereinabove referred to, and also a one-third of the aggregate net amount [36] collected by the executors upon the policies of life insurance listed among the assets of the estate, and the remainder to William R. Castle, L. A. Thurston and David L. Withington, the trustees appointed herein under the provisions and trusts set forth and contained in the will of James B. Castle.

Jurisdiction is hereby retained to make and enter any other order or orders, decree or decrees from time to time upon the petition for allowance of accounts, determining trust and distributing the estate filed herein February 17, 1919.

Dated, Honolulu, Hawaii, April 5, 1919.

[Seal] (S.) C. W. ASHFORD,

First Judge, First Circuit Court, Territory of  
Hawaii. [37]

[Endorsed]: P. No. 5283. 4/244. Circuit Court,  
First Circuit, Territory of Hawaii. In the Matter  
of the Estate of James B. Castle, Late of Honolulu,  
Hawaii, Deceased. Order Approving Accounts, etc.  
Filed at 11:35 o'clock A. M., April 5, 1919. (Sgn.)  
B. N. Kahalepuna, Clerk. Castle & Withington.  
[38]

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*In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.*

In the Matter of the Estate of JAMES B. CASTLE,  
Late of Honolulu, Deceased.

**Appeal from Decree of Circuit Court.**

Now come L. A. Thurston, W. R. Castle and D. L. Withington, trustees under the will of James B. Castle, and appeal to the Supreme Court from the decree of said Circuit Court entered April 5, 1919, in the above-named cause, entitled "An Order Approving Accounts, etc.," and from every portion of said decree.

Dated, Honolulu, T. H., April 8, 1919.

(Sgn.) ARTHUR WITHINGTON,

(Sgn.) MARGUERITE ASHFORD,

Attorney for L. A. Thurston, W. R. Castle and D. L. Withington, Trustees Under the Will of James B. Castle.

[Endorsed]: Original. P. No. 5383. 4/244. Circuit Court, First Circuit, Territory of Hawaii. In the Matter of the Estate of James B. Castle, Late of Honolulu, Deceased. Appeal from Decree of Circuit Court. Filed at 9:40 o'clock A. M. April 8, 1919. (Sgn.) B. N. Kahalepuna, Clerk. Arthur Withington, Margaret Ashford. [39]

**Minutes of Court—March 28, 1919—Petition of Executors for Approval of Final and Supplemental Accounts, etc.**

Friday, March 28th, 1919.

AT CHAMBERS—1:30 o'clock P. M.

Present:—Hon. C. W. ASHFORD, First Judge,  
Presiding.

J. C. CULLEN, Clerk.

H. R. JORDAN, Reporter.

P. 5383—In the Matter of the Estate of JAMES BICKNELL CASTLE, Deceased.

**Petition of Executors for Approval of Final and Supplemental Accounts, etc.**

Messrs. CASTLE & WITHINGTON, for the Executors.

F. M. HATCH, Esq., for Julia White Castle and Harold K. L. Castle.

HARRY IRWIN, Attorney General, for the Territory.

HENRY SMITH, Esq., Master.

Came on for hearing at this time, the petition of William R. Castle, Harold K. L. Castle and David L.

Withington, executors herein, for the approval of their final and supplemental accounts herein.

Harry Irwin, Attorney General, appearing for the Territory, makes application of the Court for the appointment of appraisers for the purpose of determining the value of the estate for inheritance tax purposes, whereupon the hearing of said matter was continued until 2 o'clock P. M., Thursday, April 3d, 1919.

The parties being ready to proceed to consider the accounts and the report of the Master thereon, and there being no objections to the same, the Court ordered that the final report and account of the executors as filed herein February 17th, 1919, together with the final and supplemental report and account as filed herein March 24th, 1919, be, and the same and each of them are hereby approved and settled, and that the method of agreement or distribution, partition and division between the widow claiming dower, on the one hand, and the trustees of the estate on the other, as set forth in the final and supplemental report of the executors filed March 24th, last, is approved, and at the appropriate time the executors may proceed to act upon and in accordance with that agreement and that method of distribution; in the mean time, there are some preliminary matters to be attended to, one of which is the payment of succession taxes or estate taxes to the United States or to the Territory or to both, provided such taxes be assessable; there is a question apparently as to whether they are or not, and the date for hearing counsel as to that has already been set. If it shall be



decided by the Court that taxes are assessable, then appraisers will probably be appointed for the purpose of making new appraisals at which the Territorial Treasurer may be represented.

Mr. Harold K. L. Castle, upon being examined by the Court, waives and renounces his right to act as a trustee under the will, and by consent of parties Mr. William R. Castle is appointed trustee in place of Mr. Harold K. L. Castle.

That being agreed to, and apparently the situation under the will, it is ordered that the renunciation of Mr. Harold K. L. Castle is accepted and Mr. William R. Castle is or will be at the appropriate time by appropriate order, appointed as one of the trustees under the will to act in his place. [40]

By consent of parties, the Master is allowed a fee of \$350.00 for his services herein.

#### QUESTION AS TO THE WIFE'S RIGHT OF DOWER IN LIFE INSURANCE.

After argument by the respective counsel upon this point, the Court stated that there is really a good deal of law apparently to be looked up, and as there is apparently no urgent reason why a decision one way or the other should be rendered immediately, I will endeavor to give it some mature consideration unless you gentlemen shall feel perhaps that it is good posture right now to be submitted to the Supreme Court without a decision here, on the other hand, if my decision, whatever it shall be, should be unacceptable to either one of you, there will be very little trouble and expense to taking it up, there being



no evidence, and a very small record involved, but I merely make this suggestion at the end of your argument.

Judge HATCH.—I think it is all right to have your Honor's ruling.

The COURT.—I will endeavor to give you a decision at a reasonable time, and will endeavor to consult the different authorities with care.

Two insurance policies were received in evidence and marked Exhibits "A" and "C" respectively; also a Policy Loan Agreement which was marked Exhibit "B."

At 3:25 o'clock P. M. recess at Chambers.

By order of the Court:

(Sgn.) J. C. CULLEN,  
Clerk. [41]

**Minutes of Court—March 31, 1919—Hearing.**

Monday, March 31st, 1919.

AT CHAMBERS—10 o'clock A. M.

Present:—Hon. C. W. ASHFORD, First Judge,  
Presiding.

J. C. CULLEN, Clerk.

H. R. JORDAN, Reporter.

P. 5383—In the Matter of the Estate of JAMES  
BICKNELL CASTLE, Deceased.

At 4:40 o'clock P. M. this date, the Court rendered and filed its written Opinion and Decision in regard to the widow's right of dower in life insurance policies, holding that the widow of decedent, Julia White

Castle, has such right of dower in said life insurance policies.

At 4:41 P. M. recess at Chambers.

By order of the Court:

(Sgn.) J. C. CULLEN,  
Clerk. [42]

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**Extracts of Portions of the Policy of Life Insurance Numbered 3,656,598, Issued by the New York Life Insurance Company upon the Life of James B. Castle, Said Policy Being Designated as Exhibit "A" in a Cause Entitled in the Supreme Court of the Territory of Hawaii, "In the Matter of the Estate of James Bicknell Castle, Deceased," No. 1175.**

**NEW YORK LIFE INSURANCE COMPANY**

Agrees to pay ——— One Hundred and Ten Thousand Dollars, to the Executors, Administrators or Assigns of the Insured, or to such Beneficiary as may have been designated in the manner herein provided, at the Home Office of the Company, in the City of New York, immediately upon receipt and approval of proofs of the death of James B. Castle, the Insured if such death shall occur before the end of the Accumulation Period of this Policy.

**CHANGE OF BENEFICIARY.**—The insured may change the Beneficiary at any time and from time to time, provided the Policy is not then assigned. The Insured may, however, declare the designation of any Beneficiary to be irrevocable; during the lifetime of an Irrevocably Designated Beneficiary the

Insured shall not have the right to revoke or change the designation of that Beneficiary. If any Beneficiary or Irrevocably Designated Beneficiary dies before the Insured, the interest of such Beneficiary shall vest in the Insured. Every change, designation or declaration must be made by written notice to the Company at the Home Office, accompanied by the Policy, and will take effect only when endorsed on this Policy by the Company.

GENERAL PROVISIONS.—(1) Only the President, a Vice-President, a Secretary, or the Treasurer has power on behalf of the Company to make or modify this or any contract or Insurance or to extend the time for paying any premium, and the Company shall not be bound by any promise or representation heretofore or hereafter made, unless made in writing by one of said officers. (2) Premiums must be paid at the Home Office, unless otherwise provided, and, in any case, in exchange for an official receipt signed by one of the above-named officers and countersigned by the person to whom payment is made. (3) If the age of the Insured is incorrectly stated, the amount payable under this Policy shall be the Insurance which the actual premium paid would have purchased at the true age of the Insured. (4) In an apportionment or distribution of Profits, the principles and methods which may be adopted by the Company for such apportionment or distribution and its determination of the amount equitably belonging to this Policy shall be conclusive upon the Insured and upon all parties having or claiming any interest under this Policy. (5) Any indebtedness

to the Company will be deducted in any settlement of this Policy or of any benefit hereunder. (6) Any assignment of this Policy must be made in duplicate and both sent to the Home Office, one to be retained by the Company and the other to be returned. The Company has no responsibility for the validity of any assignment. (7) The insured may, without the consent of the Beneficiary, receive every benefit, exercise every right and enjoy every privilege conferred upon the Insured by this Policy. [43]

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**Opinion.**

*In the Supreme Court of the Territory of Hawaii.*

OCTOBER TERM, 1918.

IN THE MATTER OF THE ESTATE OF JAMES  
B. CASTLE, DECEASED.

No. 1175.

APPEAL FROM CIRCUIT JUDGE, FIRST  
CIRCUIT.

HON. C. W. ASHFORD, JUDGE.

Argued June 17, 1919.

Decided July 5, 1919.

COKE, C. J., KEMP and EDINGS, JJ.

Dower.

Under Sec. 2977, R. L. 1915, the widow is entitled to one-third part of the movable effects in possession or reducible to possession of her husband at the time of his death after the payment of his just debts.

Same.

The term "movable effects in possession or reducible to possession" is less comprehensive than the phrase "personal property."

Same—life insurance.

The proceeds of policies of insurance upon the life of the husband which were made payable to his executors, administrators or assigns and collected by them subsequently to his death were not his movable effects in possession or reducible to possession at the time of his death and the widow possess no dower right therein. [44]

#### OPINION OF THE COURT BY COKE, C. J.

James B. Castle died at Honolulu in the year 1918 and left an estate of the value of about \$600,000, which was disposed of by the will of the deceased which was duly admitted to probate. The deceased carried insurance policies payable to his executors, administrators or assigns and from which the executors received the sum of \$53,870. By the provisions of the policies of insurance the insured reserved the right to change the beneficiary at any time provided the policy was not then assigned. The deceased left surviving him a widow, Julia White Castle, and his son, Harold K. L. Castle, both of whom were provided for in the will. Mrs. Castle, the widow, waived her rights under the will and elected to take her dower right as provided by statute, and property of the value of \$181,250 was assigned to her. Upon the hearing of the final accounts of the executors of the will the Circuit Court ordered one-third of the aggre-



gate net amount collected by the executors upon the policies of life insurance carried by the deceased paid to the widow as part of her dower.

The question involved is whether a widow is entitled by way of dower to any part of the proceeds of an insurance policy upon the life of her deceased husband payable to his executors, administrators or assigns. To determine this question it is necessary to construe the meaning and intent of section 2977, R. L. 1915 which is as follows:

“Every woman shall be endowed of one-third part of all the lands owned by her husband at any time during marriage, in fee simple, in freehold, or for the term of fifty years or more, so long as twenty-five years of the term remain unexpired, but in no less estate, unless she is lawfully barred thereof; she shall also be entitled, by way of dower, to an absolute property in the one-third part of all his movable effects, in possession, or reducible to possession, at the time of his death, after the payment of all his just debts.”

[45]

The common-law right of dower entitled the wife to a life estate in one-third of all the lands and tenements of which the husband was seized of an estate of inheritance at any time during coverture. It is to be noted that by the provision of our statute the right of the widow has been extended beyond the common law to the extent that she acquires an absolute property in one-third of her husband's movable effects in possession or reducible to possession at the time of his death after the payment of his just debts.

The appellee argues that the term "movable effects in possession or reducible to possession," as the term is used in the statute, is equivalent to "personal property." Property is grouped into two general classes, to wit, personal property and real property and if the contention of appellee is sound the conclusion necessarily follows that a widow is entitled by way of dower to an interest in all of the real and personal property of her deceased husband. The statute in our opinion does not extend that far. In a prior decision of this court it is clearly indicated that in some classes of personalty the widow enjoys no dower interest. In *Trustees Ena Estate v. Ena*, 18 Haw. 588, the following language is employed: "Debts of a solvent estate should be paid from cash, but if that is insufficient the personalty in which the widow has no dower interest should be sold first." And again in the same opinion: "The widow's dower in the movable effects of her husband is subject to the payment of all of his just debts, provided the cash and nondowable personalty are insufficient." A contract of life insurance is a mutual agreement by which one party undertakes to pay a given sum upon the happening of a particular event contingent upon the duration of human life in consideration of the payment of a smaller sum immediately or [46] in periodical payments. The right to the amount due upon the policy does not come into existence until after the death of the insured. The money belongs to the insurer who is charged with the duty created by the contract to pay the beneficiaries. The only thing which the insured can grant is an interest in the con-

tract. See *Taylor v. Treasurer and Receiver General*, 115 N. E. 300. In *re Estate of Alexandre*, 19 Haw. 551, the question reserved was whether the proceeds of a contract of insurance in a mutual benefit association which the deceased prior to his death had directed should be paid to the executor of his will for the benefit of the estate were part of the estate of the deceased and whether the widow had a dower interest therein, etc., and the Court held that the widow was only entitled to dower in the movable effects in possession or reducible to possession and that the money in question was not personal property of the deceased nor a part of his movable effects in possession or reducible to possession, for which reason the widow was excluded from any right therein. An early and well considered case upon this subject is *Strong v. White*, 19 Conn. 238. The question there involved was whether where a testator bequeathed to his son all his movable property that he should die possessed of included a judgment debt which existed in favor of the testator at the time of his death. In that opinion the Court says: "The adjective 'movable' applied to property signifies in its ordinary and proper sense that which is capable of being moved or put out of one place into another. It therefore necessarily implies that such property has an actual locality and is susceptible of locomotion or a change of place. \* \* \* It is however insisted that the word 'movable' applied as an epithet to property is equivalent to the word 'personal,' and in support of this claim we are referred to Blackstone. This position, however, so far from being [47] supported,

is discountenanced by that writer. \* \* \* He did not deem the phrases 'movable property' and 'personal property' to be equivalent, but on the contrary considered movable property to be only one of the several species of personal property." See, also, 2 Bouvier's Law Dict. 2266 and *Sullivan v. Richardson*, 14 So. 692, 709.

We think it is plain that the proceeds of the policies of insurance upon the life of Mr. Castle which were made payable to his executors, administrators or assigns and collected by them subsequently to his death, were not his movable effects in possession or reducible to possession at the time of his death and that the widow possesses no dower right therein.

The order appealed from is reversed and the cause remanded to the Court below for proceedings consistent with this opinion.

A. WITHINGTON (Marguerite Ashford With Him on the Brief), for the Appellants.

F. M. HATCH, for the Appellee.

JAMES L. COKE.

S. B. KEMP.

W. S. EDINGS.

[Endorsed]: No. 1175. Supreme Court, Territory of Hawaii. October Term, 1918. In the Matter of the Estate of James B. Castle, Deceased. Opinion. Filed July 5, 1919, at 9:10 A. M. J. A. Thompson, Clerk. [48]



*In the Supreme Court of the Territory of Hawaii.*

October Term, 1919.

No. 1175.

In the Matter of the Estate of JAMES B. CASTLE,  
Late of Honolulu, Deceased.

**Decree on Appeal.**

In the above-entitled cause, pursuant to the opinion of the above-entitled court filed on the 5th day of July, 1919, the order appealed from is reversed and the cause is remanded to the Court below for proceedings consistent with said opinion.

Dated, Honolulu, T. H., July 9, 1919.

By the Court:

J. A. THOMPSON,  
Clerk Supreme Court.

[Endorsed]: Original—No. 1175. Supreme Court, Territory of Hawaii. In the Matter of the Estate of James B. Castle, Late of Honolulu, Deceased. Decree on Appeal. Filed July 9, 1919, at 2:08 P. M. J. A. Thompson, Clerk. Castle & Withington. [49]

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*In the Supreme Court of the Territory of Hawaii.*

June Term, 1919.

#1175.

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased.



MATTER OF APPEAL BY TRUSTEES AS TO  
WIDOW'S RIGHT OF DOWER IN PRO-  
CEEDS OF LIFE INSURANCE POLICIES.

**Exceptions and Notice of Appeal.**

Now comes Julia White Castle, respondent in the above-entitled matter, and excepts to the ruling and decree of the Supreme Court of the Territory of Hawaii, which decree was filed on the 9th day of July, 1919, denying to said Julia White Castle the right to share by way of dower in the proceeds of certain life insurance policies which sum is now in court for distribution, and gives notice of an appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit, from said decree.

Dated: Honolulu, July 10, 1919.

F. M. HATCH,  
Attorney for Julia White Castle.

[Endorsed]: No. 1175. In the Supreme Court, Territory of Hawaii. June Term, 1919. In the Matter of the Estate of James Bicknell Castle, Deceased. Exception and Notice of Appeal to U. S. Court of Appeals, Ninth Circuit. F. M. Hatch, Atty. for Julia White Castle. Filed July 10, 1919, at 3:36 P. M. J. A. Thompson, Clerk. [50]

*In the Supreme Court of the Territory of Hawaii.*

No. 1175.

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased,

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THUR-  
STON, and ALFRED L. CASTLE, the Trus-  
tees Under the Will of Said JAMES BICK-  
NELL CASTLE, Decéased,

Defendants in Error.

**Petition for Writ of Error from the United States  
Circuit Court of Appeals for the Ninth Circuit  
to the Supreme Court of the Territory of Hawaii.**

To the Honorable JAMES L. COKE, Chief Justice  
of the Supreme Court of the Territory of  
Hawaii:

Julia White Castle, plaintiff in error in the above-entitled cause, feeling herself aggrieved by the decision and judgment in said cause entered by said Supreme Court of the Territory of Hawaii on the 9th day of July, 1919, and complaining says:

That there is manifest error, to the damage of the petitioner in the same, which errors are specifically set forth in the assignment of errors filed herewith, to which reference is hereby made; that the amount involved in said suit, exclusive of costs, exceeds the sum or value of Five Thousand Dollars (\$5,000.00),

and that it is a proper case to be reviewed by said Circuit Court of Appeals; and therefore your petitioner would respectfully pray that a Writ of Error be allowed to her in the above-entitled cause and that she be allowed to prosecute the same to the Honorable United States Circuit Court of Appeals for the Ninth Circuit, under and according to the laws of the United States in that behalf made and provided; that an order be made fixing the amount of security which the [51] petitioner shall give and furnish upon said Writ of Error, and that, upon the giving of such security, all further proceedings in this court so far as the distribution of the sums of money received by the executors of the said will from the proceeds of certain life insurance policies is concerned be suspended and stayed until the determination of said Writ of Error by the United States Court of Appeals for the Ninth Circuit; and that the clerk of the Supreme Court of the Territory of Hawaii be directed to send to the United States Circuit Court of Appeals for the Ninth Circuit a transcript of the record, proceedings and papers in this cause, duly authenticated, for the correction of the errors so complained of and that a citation and supersedeas may issue.

And your petitioner will ever pray.

JULIA WHITE CASTLE.

By Her Attorney:

FRANCIS M. HATCH,

Petitioner.

Dated at Honolulu, H. T., this 8th day of January,  
A. D. 1920.

Subscribed and sworn to before me this 8th day of  
January, A. D. 1920.

[Seal]

J. A. THOMPSON,  
Clerk Supreme Court.

[Endorsed]: No. 1175. In the Supreme Court of  
the Territory of Hawaii. In the Matter of the Es-  
tate of James Bicknell Castle, Deceased. Julia  
White Castle, Plaintiff in Error, vs. William R.  
Castle, Lorrin A. Thurston, and Alfred L. Castle,  
Trustees Under the Will of James Bicknell Castle,  
Defendants in Error. Petition for Writ of Error.  
Filed January 8, 1920, at 11:50 A. M. J. A. Thomp-  
son, Clerk. [52]

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*In the Supreme Court of the Territory of Hawaii.*

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased.

JULIA WHITE CASTLE,  
Plaintiff in Error,  
vs.

WILLIAM R. CASTLE, LORRIN A. THUR-  
STON and ALFRED L. CASTLE, Trustees  
Under the Will of JAMES BICKNELL  
CASTLE, Deceased,  
Defendants in Error.

**Affidavit of Value.**

Territory of Hawaii,  
City and County of Honolulu.

Francis M. Hatch, of the City and County of Hono-  
lulu, Territory of Hawaii, being duly sworn, doth de-  
pose and say:

That he is attorney in fact of Julia White Castle, plaintiff in error in the above-entitled cause; that in the controversy between said Julia White Castle, plaintiff in error, against William R. Castle and others, trustees under the will of James Bicknell Castle, deceased, defendants in error, there is involved more than the sum of Five Thousand Dollars (\$5,000.00), exclusive of costs, to wit, said Julia White Castle, plaintiff in error claims to be entitled to the sum of Seventeen Thousand Nine Hundred and Fifty-six 66/100 Dollars (\$17,956.66), which money is now under the control of the Court in the above-entitled cause, and which is the sum actually in dispute between the parties above named; and further deponent sayeth not.

FRANCIS M. HATCH.

Subscribed and sworn to before me this 8th day of January, A. D. 1920.

[Seal]

J. A. THOMPSON,  
Clerk.

[Endorsed]: No. 1175. In the Supreme Court of the Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle, Deceased, Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lorrin A. Thurston, and Alfred L. Castle, Trustees Under the Will of James Bicknell Castle, Deceased, Defendants in Error. Affidavit of Value. Filed January 8, 1920, at 11:50 A. M. J. A. Thompson, Clerk. [53]



*In the Supreme Court of the Territory of Hawaii.*

No. 1175.

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased,

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, the Trustees Un-  
der the Will of Said JAMES BICKNELL  
CASTLE, Deceased,

Defendants in Error.

### **Assignment of Errors.**

Now comes the above-named plaintiff, Julia White Castle, and says that in the records and proceedings in the above-entitled cause there is manifest error in this, to wit:

#### I.

That the Supreme Court of the Territory of Hawaii erred in ordering and rendering judgment that this plaintiff in error was and is not entitled to share by way of dower, under the laws of the Territory of Hawaii, in the proceeds of certain policies of life insurance which had been taken out by the said James Bicknell Castle in his lifetime and made payable to his executors or administrators upon his decease.

## II.

That the said Supreme Court of the Territory of Hawaii erred in entering judgment against said Julia White Castle on her petition for the assignment to her of one-third ( $\frac{1}{3}$ ) of the [54] proceeds of said policies of life insurance which had been collected by the executors and trustees named under the Will of said James Bicknell Castle and which sum was, at the time of the application of said Julia White Castle, in court and subject to the disposition of the Court as part of the estate of said James Bicknell Castle, deceased.

Dated at Honolulu, H. T., this 8th day of January, A. D. 1920.

JULIA WHITE CASTLE,

By Her Attorney:

FRANCIS M. HATCH. [55]

[Endorsed:] No. 1175. In the Supreme Court of the Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle, Deceased, Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lorrin A. Thurston, and Alfred L. Castle, Trustees under the Will of James Bicknell Castle, Deceased, Defendants in Error. Assignment of Errors. Filed January 8, 1920, at 11:50 A. M. J. A. Thompson, Clerk.  
[56]

*In the Supreme Court of the Territory of Hawaii.*

No. 1175.

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased,

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, Trustees Under  
the Will of Said JAMES BICKNELL  
CASTLE, Deceased,

Defendants in Error.

**Order Allowing Writ of Error Returnable to United  
States Circuit Court of Appeals, Ninth Circuit,  
and Supersedeas.**

Upon reading and filing the foregoing petition for a writ of error, together with an assignment of errors presented therewith alleged to have occurred in the judgment of the Court and in the proceedings in the trial of said cause prior thereto;

It is ORDERED that a writ of error be and the same is hereby allowed to the said Julia White Castle to have reviewed by the Circuit Court of Appeals of the United States for the Ninth Circuit the judgment heretofore entered in the above-entitled cause, and the proceedings in the trial of said cause prior thereto; and that the amount of bond on said writ of error be and the same is hereby fixed in the sum

of Five Hundred Dollars (\$500.00), and that upon the filing by said above-named plaintiff in error of an approved bond in said amount all further proceedings in said cause in the Supreme Court of the Territory of Hawaii and in the Circuit Court of the First Judicial Circuit in said Territory of [57] Hawaii, so far as the proceeds of certain policies of life insurance named in said proceedings is concerned, be stayed and suspended until the determination of said writ of error by the said United States Circuit Court of Appeals for the Ninth Circuit.

Dated at Honolulu, H. T., this 8th day of January, A. D. 1920.

[Seal] JAMES L. COKE,  
Chief Justice, Supreme Court, Territory of Hawaii.

[Endorsed]: No. 1175. In the Supreme Court of the Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle, Deceased, Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lor-rin A. Thurston, and Alfred L. Castle, Trustees Under the Will of James Bicknell Castle, Deceased, Defendants in Error. Order Allowing Writ of Error. Filed January 8, 1920, at 11:50 A. M. J. A. Thompson, Clerk. [58]

*In the Supreme Court of the Territory of Hawaii.*

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased,

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, Trustees Under  
the Will of JAMES BICKNELL CASTLE,  
Deceased,

Defendants in Error.

**Bond on Writ of Error.**

KNOW ALL MEN BY THESE PRESENTS,  
that Julia White Castle, of Honolulu, Ter-

C. R.

ritory of Hawaii, as principal, and ~~John~~ C. R. H.

Hemenway,

~~Waterhouse~~, of said Honolulu, as surety,

are held and firmly bound unto William R. Castle,  
Lorrin A. Thurston and Alfred L. Castle, Trustees  
under the Will of James Bicknell Castle, deceased,  
in the sum of Five Hundred Dollars (\$500.00), to  
the payment whereof well and truly to be made we  
bind ourselves and our respective heirs, executors and  
administrators firmly by these presents.

The condition of the above obligation is such that,  
whereas on the 8th day of January, 1920, the above-  
bonded principal sued out a Writ of Error to the  
United States Circuit Court of Appeals for the Ninth  
Circuit from a certain judgment made and entered



in the above-entitled court and cause on the 9th day of July, 1919, by the Supreme Court of the Territory of Hawaii.

NOW, THEREFORE, if the said principal shall prosecute her said writ of error to effect, and shall answer all damages and costs if she fails to sustain her said writ of error, then this obligation shall be void; otherwise in full force and effect. [59]

IN WITNESS WHEREOF, the said

C. R. H. Julia White Castle, principal, and ~~John~~  
Hemenway,  
~~Waterhouse~~, surety, have hereunto set their  
hands and seals this 8th day of January, A. D. 1920.

JULIA WHITE CASTLE.

By Her Attorney in Fact:

FRANCIS M. HATCH. (Seal)

C. R. HEMENWAY. (Seal)

The foregoing bond is approved. Honolulu, H. T.,  
January 8, 1920.

[Seal] JAMES L. COKE,  
Chief Justice of the Supreme Court, for the Territory  
of Hawaii.

[Endorsed]: No. 1175. In the Supreme Court of the Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle, Deceased, Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lor-rin A. Thurston, and Alfred L. Castle, Trustees Under the Will of James Bicknell Castle, Deceased, Defendants in Error. Bond on Writ of Error. Filed January 8, 1920, at 11:50 A. M. J. A. Thompson, Clerk.  
[60]

*In the Supreme Court of the Territory of Hawaii.*

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased.

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, Trustees Under  
the Will of JAMES BICKNELL CASTLE,  
Deceased,

Defendants in Error.

**Writ of Error.**

United States of America,—ss.

The President of the United States of America, to the  
Honorable the Judges of the Supreme Court of  
the Territory of Hawaii, GREETING:

Because in the record and in the proceedings, as  
also in the rendition of judgment in said Supreme  
Court of the Territory of Hawaii before you, in the  
case of Julia White Castle, Plaintiff, vs. The Trustees  
Under the Will of James Bicknell Castle, Deceased,  
Defendants, a manifest error has happened, to the  
great prejudice and damage of said Julia White  
Castle, petitioner and plaintiff, as is said and appears  
by the petition herein,—

We, being willing that error, if any hath been,  
should be duly corrected, and full and speedy justice  
done to the parties aforesaid in this behalf, do com-

mand you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Justices of the United States Circuit Court of Appeals for the Ninth Circuit, in the City of San Francisco, in [61] the State of California, together with this Writ, so as to have the same at the said place in said Circuit Court thirty days after this date, and the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein, to correct those errors what of right and according to the laws and customs of the United States should be done.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States, this 8th day of January, A. D. 1920.

Attest my hand and the seal of the Supreme Court of the Territory of Hawaii, at the Clerk's Office, Honolulu, Territory of Hawaii, on the day and year last above written.

[Seal]

J. A. THOMPSON,

Clerk Supreme Court, Territory of Hawaii.

Allowed this 8th day of January, A. D. 1920.

[Seal]

JAMES L. COKE,

Chief Justice of the Supreme Court of the Territory of Hawaii. [62]

[Endorsed:] No. 1175. In the Supreme Court of the Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle, Deceased, Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lor-

rin A. Thurston, and Alfred L. Castle, Trustees under the Will of James Bicknell Castle, Deceased, Defendants in Error. Writ of Error. Filed January 8, 1920, at 11:50 A. M. J. A. Thompson, Clerk. [63]

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*In the Supreme Court of the Territory of Hawaii.*

In the Matter of the Estate of JAMES BICKNELL CASTLE, Deceased.

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, Trustees Under  
the Will of JAMES BICKNELL CASTLE,  
Deceased,

Defendants in Error.

**Citation on Writ of Error.**

United States of America,—ss.

The President of the United States of America, to  
William R. Castle, Lorrin A. Thurston and  
Alfred L. Castle, Trustees Under the Will of  
James Bicknell Castle, Deceased, GREETING:

You are hereby cited and admonished to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, to be held at the city of San Francisco, State of California, within thirty days from the date of this Writ, pursuant to a Writ of Error filed in the clerk's office of the Supreme Court of the Territory of Hawaii, wherein Julia White

Castle is plaintiff in error, and you, said trustees, are defendants in error, to show cause, if any there may be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States of America, this 8th day of January, A. D. 1920.

[Seal] JAMES L. COKE,  
Chief Justice of the Supreme Court of the Territory  
of Hawaii.

Honolulu, Jan. 8, 1920.

Service of within writ accepted on date above written.

ARTHUR WITHINGTON,  
Attorney for William R. Castle, Lorrin A. Thurston  
and Alfred L. Castle, Defendants in Error. [64]

[Endorsed:] No. 1175. In the Supreme Court of the Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle, Deceased, Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lorrin A. Thurston, and Alfred L. Castle, Trustees under the Will of James Bicknell Castle, deceased, Defendants in Error. Citation on Writ of Error. Filed and issued for service January 8, 1920, at 11:50 A. M. J. A. Thompson, Clerk. Returned January 8, 1920, at 3:10 P. M. J. A. Thompson, Clerk. [66]



*In the Supreme Court of the Territory of Hawaii.*

In the Matter of the Estate of JAMES BICKNELL  
CASTLE.

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, Trustees,  
Defendants in Error.

**Praecipe for Transcript of Record on Writ of Error.**

To James A. Thompson, Esquire, Clerk of the Supreme Court for the Territory of Hawaii:

You will please prepare a transcript of a record in the above-entitled cause, to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and include in said transcript the following pleadings, opinions, judgments and papers on file in said cause, to wit:

No. 1175—Estate of J. B. CASTLE.

1. Last Will and Testament of James B. Castle, dated September 13, 1907, and Codicil thereto, dated August 19, 1912.
2. Election of Julia White Castle, widow, to take dower, dated July 12, 1918.
3. Petition by the executors for allowance of accounts, determining trust and distributing estate, and attached thereto are the Schedules of Accounts, marked Schedules "A," "B" and

“C,” and a summary showing the remainder of the property belonging to the estate, marked Exhibit “E,” filed February 17, 1919. [67]

4. Supplemental final account, filed March 24, 1919.
5. Order approving accounts, etc., dated and filed April 5, 1919, Judge Ashford’s opinion.
6. Appeal by the trustees from the decree of the Circuit Court, dated and filed April 8, 1919.
7. Minutes of the Circuit Court, First Circuit, under dates, to wit: March 28 and 31, 1919.
8. Extracts of portions of the Policy of Life Insurance numbered 3,656,598, issued by the New York Life Insurance Company upon the life of James B. Castle, said Policy being designated as Exhibit “A” on file in the above cause (portions indicated, introductory portion and “General Provisions”).
9. Opinion of the Supreme Court of the Territory of Hawaii, rendered and filed July 5, 1919.
10. Decree of the Supreme Court of the Territory of Hawaii, entered and filed July 9, 1919.
11. Exceptions and notice of appeal by Julia White Castle to the Circuit Court of Appeals of the United States for the Ninth Circuit, dated and filed July 10, 1919.
12. Petition for Writ of Error from the United States Circuit Court of Appeals for the Ninth Circuit to the Supreme Court of the Territory of Hawaii, dated and filed January 8, 1920.
13. Affidavit of value by Francis M. Hatch, dated and filed January 8, 1920.

14. Assignment of errors, dated and filed January 8, 1920.
15. Order allowing writ of error returnable to United States Circuit Court of Appeals for the Ninth Circuit, and supersedeas, dated and filed January 8, 1920.
16. Bond on writ of error, dated and filed January 8, 1920.
17. Writ of error, dated and filed January 8, 1920.
18. Citation on writ of error, with return of service, dated and filed January 8, 1920. [68]
19. Section 4, Article 1, Chapter 4, Second Act Kamehameha 3d, 1846.

You will please annex and transmit with the record the original writ of error from the United States Circuit Court of Appeals for the Ninth Circuit, and original Citation with return of service, your return of the writ of error under the seal of the Supreme Court of the Territory of Hawaii, and also your certificate under seal stating in detail the cost of the record and by whom paid.

Dated Honolulu, T. H., January 8, 1920.

F. M. HATCH,  
Attorney for Julia White Castle,  
Plaintiff in Error.

[Endorsement]: No. 1175. In the Supreme Court of the Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle. Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lorrin A. Thurston, and Alfred L. Castle, Defendants in Error, Praecipe to the Clerk. Filed January 8, 1920, at

3:22 P. M. J. A. Thompson, Clerk. F. M. Hatch,  
Atty. for Plaintiff in Error. Honolulu, Hawaii,  
[69]

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**Copy of Section IV of Article I of Chapter IV,  
Second Act of Kamehameha III, Statutes of  
1846.**

“Section IV. The wife, whether married in pursuance of this article or heretofore, or whether validly married in this kingdom or in some other country, and residing in this, shall be deemed for all civil purposes, to be merged in her husband, and civilly dead. She shall not, without his consent, unless otherwise stipulated by anterior contract, have legal power to make contracts, or to alienate and dispose of property—she shall not be civilly responsible in any court of justice, without joining her husband in the suit, and she shall in no case be liable to imprisonment in a civil action. The husband shall be personally responsible in damages, for all the tortuous acts of his wife, for assaults, for slanders, for libels and for consequential injuries done by her to any person or persons in this kingdom. The wife shall in virtue of her marriage, be entitled in law to receive upon the death of her husband, by way of dower, a life estate in one-third part of all immoveable and fixed property owned by him at the time of her intermarriage, or acquired by him during her marriage; and an absolute property in the one-third part of all his moveable effects in possession or reduceable to possession at the time of his death, after the payment of all his just

debts; Provided, that the wife may voluntarily as hereinafter specified, renounce in writing, her dower in any of the immoveable and fixed property of her husband, sold by him for a valuable and satisfactory consideration. Without which free and unconstrained renunciation in writing, she shall, notwithstanding such sale by her husband, be entitled to demand and receive her dower of the purchaser or holder, at the time of her widowhood." [70]

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*In the Supreme Court of the Territory of Hawaii.*  
October Term, 1919.

APPEAL FROM CIRCUIT JUDGE, FIRST  
CIRCUIT.

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased.

**Certificate of Clerk to Transcript of Record and  
Return to Writ of Error.**

Territory of Hawaii,  
City and County of Honolulu,—ss.

I, James A. Thompson, Clerk of the Supreme Court of the Territory of Hawaii, by virtue of the foregoing writ of error, dated and filed January 8, 1920, and in obedience thereto, the original of which said writ of error is herewith returned, being pages 61 to 63, both inclusive, of the foregoing transcript of record, and in pursuance to the praecipe dated and filed January 8, 1920, to me directed, a copy whereof is hereto



attached, being pages 67 to 69, both inclusive, DO HEREBY TRANSMIT to the Honorable United States Circuit Court of Appeals for the Ninth Circuit the foregoing transcript of record, being pages 1 to 42, both inclusive, pages 44 to 53, both inclusive, and pages 57 to 60, both inclusive, and I DO HEREBY CERTIFY the same to be true, full and correct copies of the pleadings, record, proceedings, opinions and final decree which are now on file and of record in the office of the clerk of the Supreme Court of the Territory of Hawaii in the case entitled in said court, "In the Matter of the Estate of James Bicknell Castle, Deceased," Number 1175.

I FURTHER CERTIFY that page 43 of the foregoing transcript of record is a full, true and correct abstract of portions of the Policy of Life Insurance Numbered 5,656,598, issued by the New York Life Insurance Company upon the life of James B. Castle, said [71] policy being designated as Exhibit "A" in the above cause.

I DO FURTHER CERTIFY that the original assignment of errors, dated and filed January 8, 1920, being pages 54 to 56, both inclusive, and the original citation on writ of error, dated and filed January 8, 1920, with the acceptance of service thereof, being pages 64 to 66, both inclusive, of the foregoing transcript, are hereto attached and herewith returned.

I DO FURTHER CERTIFY that page 70 of the foregoing transcript is a true and faithful copy of Section IV of Article I of Chapter IV of the Second

Act of Kamehameha III, Statute Laws, 1846, at page 59, under the Title, to wit: "ARTICLE I.—OF THE MARRIAGE CONTRACT."

I LASTLY CERTIFY that the cost of the foregoing transcript of record is \$32.55, and that said amount has been paid by Francis M. Hatch, Esq., attorney for Julia White Castle, the plaintiff in error herein.

IN TESTIMONY WHEREOF I have hereunto set my hand and the seal of the Supreme Court of the Territory of Hawaii, at Honolulu, City and County of Honolulu, this 19th day of January, A. D. 1920.

[Seal] JAMES A. THOMPSON,  
Clerk of the Supreme Court of the Territory of Hawaii. [72]

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[Endorsed]: No. 3443. United States Circuit Court of Appeals for the Ninth Circuit. Julia White Castle, Plaintiff in Error, vs. William R. Castle, Lorrin A. Thurston and Alfred L. Castle, Trustees Under the Will of James Bicknell Castle, Deceased, Defendants in Error. Transcript of Record. Upon Writ of Error to the Supreme Court of the Territory of Hawaii.

Filed January 28, 1920.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.

*In the Supreme Court of the Territory of Hawaii.*

No. 1175.

In the Matter of the Estate of JAMES BICKNELL  
CASTLE, Deceased.

JULIA WHITE CASTLE,

Plaintiff in Error,

vs.

WILLIAM R. CASTLE, LORRIN A. THURSTON  
and ALFRED L. CASTLE, the Trustees  
Under the Will of JAMES BICKNELL  
CASTLE, Deceased,

Defendants in Error.

**Stipulation of Facts Admitted on Writ of Error.**

It is stipulated that on any appeal or writ of error taken to obtain a review of the decision and judgment of the above-entitled court in the above-entitled cause, a transcript of the testimony and exhibits in said cause need not be taken up, but that on any such appeal or writ of error the following facts, among others, shall be considered as established by said testimony and exhibits:

1. James Bicknell Castle, late of Honolulu in the Territory of Hawaii, died on April 5th, 1918, leaving estate in said Territory and a will;

2. That under said will, which was duly admitted to probate on May 18th, 1918, David L. Withington, William R. Castle and Harold K. L. Castle were appointed executors of the same; and thereafter on the

settlement of accounts of said executors said David L. Withington, William R. Castle and Lorrin A. Thurston were appointed trustees under said will. And that subsequently, during the pendency of the proceedings as to said estate, said David L. Withington having died, Alfred L. Castle was appointed trustee under said will in his place; that the assets of the estate of said James Bicknell Castle are now in the control of said trustees, to wit, William R. Castle, Lorrin A. Thurston and Alfred L. Castle; except the sum of \$18,302.73, claimed by the widow, Julia White Castle—the plaintiff in error—from proceeds of life insurance policies, which is held by the executors to be disposed of on the Court's order as to the widow's right of dower;

3. That on February 17th, 1919, said executors filed an account showing the collection by them, among other amounts, of the sum of Fifty-four Thousand, Nine Hundred Eight and 19/100 Dollars (\$54,908.19), the proceeds of certain policies of life insurance in New York companies, taken out by said James Bicknell Castle in his lifetime, made payable upon his death to his executors, administrators or assigns;

4. That said amount of \$54,908.19 was in fact collected by said executors after the decease of said James Bicknell Castle, to wit, in June and July, 1918; that on the date last named all of the debts of said James Bicknell Castle had been paid, but no part of said sum of \$54,908.19 had ever been in actual physical possession of said James Bicknell Castle, or of his said widow Julia White Castle;

5. That said Julia White Castle duly renounced the provisions made in her favor in the will of her said husband, and elected to take in lieu thereof her right of dower and other statutory rights under the laws of the Territory of Hawaii;

6. That at the time of the settlement of the accounts of said executors upon the claim of said widow to be allowed one-third part of the said sum of \$54,908.19, proceeds of said policies of life insurance as above set out, the judge of the Circuit Court of the First Judicial Circuit having jurisdiction of said cause allowed to said widow one-third, to wit: \$18,302.73 as distributive share by way of dower under Hawaiian statute; that upon appeal to the Supreme Court of the Territory of Hawaii, said decision of said Judge was reversed, and it was held that his widow had no dower right in said amount;

7. That said life insurance policies, amongst other clauses, contained the following provisions:

#### NEW YORK LIFE INSURANCE COMPANY

Agrees to pay ——— One Hundred and Ten Thousand Dollars, to the Executors, Administrators or Assigns of the Insured, or to such Beneficiary as may have been designated in the manner herein provided, at the Home Office of the Company, in the City of New York, immediately upon receipt and approval of proofs of the death of JAMES B. CASTLE, the Insured if such death shall occur before the end of the Accumulation Period of this Policy.

CHANGE OF BENEFICIARY.—The insured may change the Beneficiary at any time and from time



to time, provided the Policy is not then assigned. The insured may, however, declare the designation of any Beneficiary to be irrevocable; during the lifetime of an Irrevocably Designated Beneficiary the Insured shall not have the right to revoke or change the designation of that Beneficiary. If any Beneficiary or Irrevocably Designated Beneficiary dies before the Insured, the interest of such Beneficiary shall vest in the Insured. Every change, designation or declaration must be made by written notice to the Company at the Home Office, accompanied by the Policy, and will take effect only when endorsed on this Policy by the Company.

GENERAL PROVISIONS.—(1) Only the President, a Vice-President, a Secretary, or the Treasurer has power on behalf of the Company to make or modify this or any contract of Insurance or to extend the time for paying any premium, and the Company shall not be bound by any promise or representation heretofore or hereafter made, unless made in writing by one of said officers. (2) Premiums must be paid at the Home Office, unless otherwise provided, and, in any case, in exchange for an official receipt signed by one of the above-named officers and countersigned by the person to whom payment is made. (3) If the age of the Insured is incorrectly stated, the amount payable under this Policy shall be the Insurance which the actual premium paid would have purchased at the true age of the Insured. (4) In an apportionment or distribution of Profits, the principles and methods which may be adopted by the Com-

pany for such apportionment or distribution and its determination of the amount equitably belonging to this Policy shall be conclusive upon the Insured and upon all parties having or claiming any interest under this policy. (5) Any indebtedness to the Company will be deducted in any settlement of this Policy or of any benefit hereunder. (6) Any assignment of this Policy must be made in duplicate and both sent to the Home Office, one to be retained by the Company and the other to be returned. The Company has no responsibility for the validity of any assignment. (7) The Insured may, without the consent of the Beneficiary, receive every benefit, exercise every right and enjoy every privilege conferred upon the Insured by this Policy.

Honolulu, January 21st, 1920.

FRANCIS M. HATCH,

Attorney for Julia White Castle,

Plaintiff in Error.

ARTHUR WITHINGTON,

Attorney for William R. Castle, Lorrin A. Thurston

and Alfred L. Castle, the Trustees Under the

Will of James Bicknell Castle, Deceased,

Defendants in Error.

The clerk may file the foregoing stipulation, January 30th, 1920.

JAMES L. COKE,

Chief Justice of the Supreme Court.

[Endorsed]: No. 1075. In the Supreme Court, Territory of Hawaii. In the Matter of the Estate of James Bicknell Castle, Deceased. Julia White Castle, Plaintiff in Error, vs. William R. Castle and Others, Trustees, Defendants in Error. Stipulation—Agreed Facts. Filed January 30, 1920, at 2:50 P. M. J. A. Thompson, Clerk.

No. 3443. United States Circuit Court of Appeals for the Ninth Circuit. Filed Feb. 10, 1920. F. D. Monckton, Clerk.